

–95. (Amended) A spinal distractor for use in spinal fusion surgery within an adult human thoracic and lumbar spine for positioning adjacent vertebral bodies of two adjacent vertebrae adjacent a disc space in selected relationship to each other, said spinal distractor comprising:

a body having a height adapted to be greater than the height of the disc space; and

at least one disc penetrating extension extending from said body adapted to be inserted into the lateral aspect of the disc space from a position anterior to the transverse processes of the adjacent vertebrae, said disc penetrating extension having a portion adapted to bear against each of the adjacent endplates of the two adjacent vertebral bodies, said portion of said disc penetrating extension having a height less than the height of said body and a length that is less than the transverse width of the vertebral bodies between which said disc penetrating extension is adapted to be inserted, said length being greater than the depth of the spinal disc intermediate the two adjacent vertebral bodies between which said disc penetrating extension is adapted to be inserted.

108. (Amended) An apparatus for use in human spinal surgery across the height of a disc space between the vertebral bodies of two adjacent vertebrae, said apparatus comprising:

a guard member having a height adapted to be greater than the height of the disc space and an opening for providing protected access to the lateral aspect of the disc space and the adjacent vertebral bodies from a position

anterior to the transverse processes of the adjacent vertebrae, said opening having a maximum height; and

at least one disc penetrating extension extending from said guard member adapted to be inserted into the lateral aspect of the disc space from a position anterior to the transverse processes of the adjacent vertebrae, said disc penetrating extension having a portion adapted to bear against each of the adjacent endplates of the adjacent vertebral bodies, said portion of said disc penetrating extension having a height less than the height of said guard member and a length that is less than the transverse width of the vertebral bodies between which said disc penetrating extension is adapted to be inserted, said length being greater than the depth of the disc space in which said length is adapted to be inserted, said portion of said disc penetrating extension having an upper surface adapted to contact one of the adjacent endplates of the adjacent vertebral bodies and a lower surface adapted to contact the other of the adjacent endplates of the adjacent vertebral bodies at more than one point through the disc space.—.

REMARKS

Applicant respectfully brings to the Examiner's attention that three (3) signed Form PTO 1449's submitted with the Information Disclosure Statements dated: November 23, 1998; February 22, 2001; and July 26, 2001, have yet to be received by the applicant. It is respectfully requested that the Examiner provide copies of all three (3) signed Form 1449's to the applicant with the next action by the Examiner.